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CENTRAL DIST. OF CALIF.
LOS ANGELES

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13 IN THE UNITED STATES DISTRICT COURT

14 FOR THE CENTRAL DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,

16 Plaintiff,

17 v.

18 GOODRICH CORPORATION;
19 WEST COAST LOADING
20 CORPORATION; KWIKSET
21 LOCKS, INC.; EMHART
22 INDUSTRIES, INC.;
23 AMERICAN HARDWARE
24 CORPORATION; BLACK AND
25 DECKER, INC.; PYRO
26 SPECTACULARS, INC.; WONG
27 CHUNG MING a/k/a/ CHUNG
28 MING WONG; KEN
THOMPSON, INC.; and RIALTO
CONCRETE PRODUCTS,

Defendants,

CIVIL ACTION NO.

CV 10-00824-SJO(JEM)

COMPLAINT

Plaintiff The United States of America ("United States"), by the authority of the Attorney General and at the request and on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), alleges as follows:

STATEMENT OF THE CASE

1. This is a civil action brought pursuant to Section 107 of the

1 Comprehensive Environmental Response, Compensation, and Liability Act of
2 1980, as amended, ("CERCLA"), 42 U.S.C. § 9607, for the recovery of
3 response costs incurred by EPA in connection with the B.F. Goodrich Site in
4 Rialto, California, against Goodrich Corporation (formerly known as B.F.
5 Goodrich Corporation) ("Goodrich"); Black and Decker, Inc., ("Black and
6 Decker"); West Coast Loading Corporation ("West Coast"); Kwikset Locks,
7 Inc. ("Kwikset"); American Hardware Corporation ("American Hardware");
8 Emhart Industries, Inc.; Pyro Spectaculars, Inc. ("PSI"); Wong Chung Ming
9 a/k/a/ Chung Ming Wong; Ken Thompson, Inc.; and Rialto Concrete Products.
10 The complaint also seeks a declaratory judgment pursuant to Section 113(g) of
11 CERCLA, 42 U.S.C. § 9613(g), that the defendants are liable for all future
12 EPA costs of removal and remedial action not inconsistent with the National
13 Contingency Plan, 40 C.F.R. § 300. Finally, the complaint also seeks an
14 injunction against Goodrich; the predecessors of Black and Decker and Black
15 and Decker; and PSI under Section 7003 of the Resource Conservation and
16 Recovery Act ("RCRA"), 42 U.S.C. § 6973, to abate an imminent and
17 substantial endangerment presented by groundwater contamination from the
18 disposal of solid waste.

19 2. The subject matter of this action is the same as that in cases
20 consolidated under City of Colton v. American Promotional Events, Inc., et al.,
21 No. ED CV 09-01864 PSG (SSX). The United States is filing answers to
22 complaints in the consolidated cases, and the claims in this complaint are also
23 intended as counterclaims on behalf of EPA. The United States will move to
24 consolidate this case into City of Colton v. American Promotional Events, Inc.,
25 et al., No. ED CV 09-01864 PSG (SSX).

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1 with its principal place of business in Farmington, Connecticut. In 1976,
2 Emhart Industries, Inc. formed a holding company called Emhart Corporation
3 to own all its stock. In 1989, Emhart Corporation merged into Black and
4 Decker. Emhart Industries, Inc. purports to have dissolved in 2002 and
5 distributed all its assets to Black and Decker. On information and belief, Black
6 and Decker is the successor to the liabilities of Emhart Industries, Inc and
7 West Coast.

8 13. Chung Ming Wong is a resident of Hong Kong.

9 14. Pyro Spectaculars, Inc. is a California corporation with its
10 principal place of business in Rialto, California.

11 15. Ken Thompson, Inc. is a California corporation with its principal
12 place of business in Cypress, California.

13 16. Rialto Concrete Products, Inc. is a California corporation with its
14 principal place of business in Rialto, California.

15 GENERAL ALLEGATIONS

16 17. The B.F. Goodrich Site is a 160 acre area in an industrial section
17 of Rialto, California. The Site includes not only the 160 acre parcel, but also
18 contaminated groundwater that has spread from the parcel for several miles.
19 The primary contaminants in the groundwater are trichloroethylene ("TCE")
20 and perchlorate.

21 18. TCE is an organic solvent once commonly used to clean
22 manufacturing equipment. Perchlorate is an inorganic chemical used as an
23 oxidizer in rocket propellant, flares, fireworks, and other products.

24 19. Most or all of the Site is located in the Rialto-Colton Groundwater
25 Basin in western San Bernardino County, California. The Basin is an
26 important source of drinking water for Rialto, Colton, and Fontana, California.

1 The Rialto-Colton groundwater basin supplies substantial quantities of
2 drinking water per day, enough water to meet the needs of tens of thousands of
3 area residents. The perchlorate and TCE contamination has forced the closure
4 of many drinking water supply wells in the basin, requiring water utilities to
5 pump more water from wells in clean outlying areas or to install costly water
6 treatment systems. Two cities, one special district agency, and one private
7 water company pump groundwater from the area.

8 20. In 2002, the Santa Ana Regional Water Quality Control Board
9 began investigating groundwater contamination, and EPA began assisting the
10 Water Board in late 2002, providing technical, enforcement, and financial
11 assistance.

12 21. In 2003, EPA made a finding of an imminent and substantial
13 endangerment because of the groundwater contamination and issued a
14 unilateral order to Goodrich and Emhart, under Section 106 of CERCLA, 42
15 U.S.C. 9606 and Section 7003 of RCRA, 42. U.S.C. § § 6973, to perform an
16 investigation.

17 22. In 2008, EPA sampled certain groundwater monitoring wells that
18 the private parties refused to sample. EPA has conducted a Remedial
19 Investigation/ Feasibility Study ("RI/FS") for an interim groundwater cleanup
20 project, and has prepared a proposed Plan for an interim remedy.

21 23. On September 23, 2009, EPA listed the Site on CERCLA's
22 National Priorities List ("NPL"). 74 Fed. Reg. 48412 (September 23, 2009).

23 24. In 1952, Kwikset formed West Coast as a wholly owned
24 subsidiary to operate the Site to make munitions. West Coast's operations took
25 place on the 160 acre parcel. During the time that West Coast conducted
26 operations, hazardous substances were disposed of at the Site. The operations
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1 ceased at the Site in 1957. West Coast acquired the Site before it merged into
2 Kwikset in 1957.

3 25. Goodrich purchased the Site from Kwikset in 1957, and owned the
4 Site until 1966. From 1957 to approximately 1963, Goodrich conducted
5 manufacturing operations at the Site, including research and development, and
6 the testing and production of solid-fuel rocket propellant and solid-fuel missile
7 and for Sidewinder rocket motors. Goodrich's operations took place on the
8 160 acre parcel. During the time that Goodrich conducted operations,
9 hazardous substances were disposed of at the Site.

10 26. Since 1979, PSI has conducted fireworks production operations at
11 3196 N. Locust Avenue, which is a portion of the Site. PSI continues to
12 operate at a portion of the Site. PSI has disposed of waste that contributed to
13 the groundwater contamination.

14 27. Chung Ming Wong is the current owner of approximately 50 acres
15 of the northern portion of the Site, including 3196 N. Locust Avenue. Mr.
16 Wong also currently leases the property to PSI.

17 28. Ken Thompson is the current owner of four parcels of property in
18 the southern section of the Site. Ken Thompson purchased the property in
19 1988.

20 29. Rialto Concrete Products, Inc. is a current operator of the Ken
21 Thompson portion of the Site.

22 30. The property owned by Mr. Wong and leased to PSI is upgradient
23 of the property owned by Ken Thompson and operated by Rialto Concrete
24 Products. Contaminated groundwater is currently being released and poses a
25 threat of continued release from 3196 N. Locust.

26 31. Contaminated groundwater is currently being released and poses a
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1 threat of continued release from the property owned by Ken Thompson and
2 operated by Rialto Concrete Products.

3 32. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides in
4 pertinent part:

5 Notwithstanding any other provision or rule of law, and subject
6 only to the defenses set forth in subsection (b) of this section --

7 (1) the owner and operator of a . . . facility,

8 (2) any person who at the time of disposal of any
9 hazardous substance owned or operated any facility at
which such hazardous substances were disposed of,

10 * * *

11 from which there is a release, or threatened release which causes
12 the incurrence of response costs, of a hazardous substance, shall
be liable for--

13 (A) all costs of removal or remedial action incurred by the
14 United States Government . . . not inconsistent with the national
contingency plan; . . .

15 33. The Site is a "facility" within the meaning of Section 101(9) of
16 CERCLA, 42 U.S.C. § 9601(9).

17 34. There have been releases and threatened releases of "hazardous
18 substances" within the meaning of Section 101(14) of CERCLA, 42 U.S.C. §
19 9601(14), at and from the Site.

20 35. The releases and threatened releases of hazardous substances at
21 and from the Site have caused and continue to cause the United States to incur
22 costs to conduct response actions at the Site, including, but not limited to,
23 studies, investigations, oversight, enforcement and indirect costs.

24 36. Section 7003 of RCRA provides in part:

25 [U]pon receipt of evidence that the past or present handling,
26 storage, treatment, transportation or disposal of any solid waste or
27 hazardous waste may present an imminent and substantial
28 endangerment to health or the environment, the Administrator may
bring suit . . . against any person (including any past or present

1 generator . . . or past or present owner or operator of a treatment
2 storage or disposal facility) who has contributed or who is
3 contributing to such handling, storage, treatment, transportation or
disposal to restrain such person from [such activity], to order such
person to take such other action as may be necessary, or both. . . .

4 42 U.S.C. § 6973.

5 FIRST CLAIM FOR RELIEF
6 (Cost Recovery
Against Goodrich)

7 37. Paragraphs 1 through 36 are realleged and incorporated by
8 reference.

9 38. As the owner and operator of a facility at the time of disposal of a
10 hazardous substance from which facility there has been a release or threatened
11 release of a hazardous substance, which led to the incurrence of response costs,
12 Goodrich is liable for all such costs under Sections 107(a)(2) of CERCLA, 42
13 U.S.C. § 9607(a)(2).

14 SECOND CLAIM FOR RELIEF
15 (Section 7003 of RCRA
Against Goodrich)

16 39. Paragraphs 1 through 36 are realleged and incorporated by
17 reference.

18 40. EPA Region 9 has determined that there is or may be an imminent
19 and substantial endangerment to the public health or welfare or the
20 environment from the disposal of solid waste at the Site. There is or may be an
21 imminent and substantial endangerment to the public health or welfare or the
22 environment from the disposal of solid waste at the Site.

23 41. Section 7003 of the RCRA, 42 U.S.C. § 6973, authorizes the
24 United States to bring an action to secure such relief as may be necessary to
25 abate the danger or threat at or from the Site.

26 42. Pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, Goodrich
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1 is liable to the United States to abate the danger or threat at or from the Site and
2 to perform any court ordered relief as the public interest and the equities of the
3 case may require.

4 THIRD CLAIM FOR RELIEF
5 (Cost Recovery Against
6 Black and Decker and Predecessors)

7 43. Paragraphs 1 through 36 are realleged and incorporated by
8 reference.

9 44. During the time that the predecessors of Black and Decker owned
10 and operated the Site, hazardous substances were disposed of at the Site.

11 45. As the owner and operator of a facility at the time of disposal of a
12 hazardous substance from which facility there has been a release or threatened
13 release of a hazardous substance, which led to the incurrence of response costs,
14 the predecessors of Black and Decker and Black and Decker are liable for all
15 such costs under Sections 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

16 FOURTH CLAIM FOR RELIEF
17 (Section 7003 of RCRA
18 Against Black and Decker and Predecessors)

19 46. Paragraphs 1 through 36 are realleged and incorporated by
20 reference.

21 47. EPA Region 9 has determined that there is or may be an imminent
22 and substantial endangerment to the public health or welfare or the
23 environment from the disposal of solid waste at the Site. There is or may be an
24 imminent and substantial endangerment to the public health or welfare or the
25 environment from the disposal of solid waste at the Site.

26 48. Section 7003 of the RCRA, 42 U.S.C. § 6973, authorizes the
27 United States to bring an action to secure such relief as may be necessary to
28 abate the danger or threat at or from the Site.

1 49. Pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, the
2 predecessors of Black and Decker and Black and Decker are liable to the
3 United States to abate the danger or threat at or from the Site and to perform
4 any court ordered relief as the public interest and the equities of the case may
5 require.

6 FIFTH CLAIM FOR RELIEF
7 (Cost Recovery
 Against PSI)

8 50. Paragraphs 1 through 36 are realleged and incorporated by
9 reference.

10 51. As the operator of a facility from which there has been a release or
11 threatened release of a hazardous substance, which led to the incurrence of
12 response costs, PSI is liable for all such costs under Sections 107(a)(1) of
13 CERCLA, 42 U.S.C. § 9607(a)(1).

14 SIXTH CLAIM FOR RELIEF
15 (Section 7003 of RCRA
 Against PSI)

16 52. Paragraphs 1 through 36 are realleged and incorporated by
17 reference.

18 53. EPA Region 9 has determined that there is or may be an imminent
19 and substantial endangerment to the public health or welfare or the
20 environment from the disposal of solid waste at the Site. There is or may be an
21 imminent and substantial endangerment to the public health or welfare or the
22 environment from the disposal of solid waste at the Site.

23 54. Section 7003 of the RCRA, 42 U.S.C. § 6973, authorizes the
24 United States to bring an action to secure such relief as may be necessary to
25 abate the danger or threat at or from the Site.

26 55. Pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, PSI
27 is liable to the United States to abate the danger or threat at or from the Site and
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1 to perform any court ordered relief as the public interest and the equities of the
2 case may require.

3 SEVENTH CLAIM FOR RELIEF

4 (Cost Recovery
Against Mr. Wong)

5 56. Paragraphs 1 through 36 are realleged and incorporated by
6 reference.

7 57. As the owner of a facility from which there has been a release or
8 threatened release of a hazardous substance, which led to the incurrence of
9 response costs, Mr. Wong is liable for all such costs under Sections 107(a)(1)
10 of CERCLA, 42 U.S.C. § 9607(a)(1).

11 EIGHTH CLAIM FOR RELIEF

12 (Cost Recovery
Against Ken Thompson)

13 58. Paragraphs 1 through 36 are realleged and incorporated by
14 reference.

15 59. As the owner of a facility from which there has been a release or
16 threatened release of a hazardous substance, which led to the incurrence of
17 response costs, Ken Thompson is liable for all such costs under Sections
18 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

19 NINTH CLAIM FOR RELIEF

20 (Cost Recovery Against
Rialto Concrete Products)

21 60. Paragraphs 1 through 36 are realleged and incorporated by
22 reference.

23 61. As the operator of a facility from which there has been a release or
24 threatened release of a hazardous substance, which led to the incurrence of
25 response costs, Rialto Concrete Products is liable for all such costs under
26 Sections 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).
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TENTH CLAIM FOR RELIEF
(CERCLA Declaratory Judgment)

62. Paragraphs 1 through 36 are realleged and incorporated by reference.

63. Pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), a declaratory judgment should be entered against the Defendants declaring that they are liable for all future response costs not inconsistent with the NCP to be incurred by the United States in connection with the Site.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff the United States prays that the Court:

1. Enter judgment against the Defendants and in favor of the United States, for all costs incurred in response to the release or threat of release of hazardous substances at and from the Site, plus interest;

2. Enjoin the Goodrich Corporation; the predecessors of Black and Decker and Black and Decker, Inc.; and Pyro Spectaculars, Inc. to abate the danger or threat at or from the Site and to perform any other relief as the public interest and the equities of the case may require;


3. Enter a declaratory judgment pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), that the Defendants are liable for all future response costs to be incurred by the United States in connection with the Site not inconsistent with the National Contingency Plan;

4. Award court costs to the United States; and

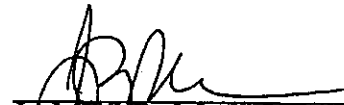
1 5. Grant such other relief as this Court deems just and proper.

2 Respectfully submitted,

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4 Dated: 2/3/10


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